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KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

STATE HISTORIC PRESERVATION DIVISION
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**MINUTES
OAHU ISLAND BURIAL COUNCIL MEETING**

DATE: WEDNESDAY, JULY 12, 2006

TIME: 9:00 A.M. (MEETING – SITE VISIT)
PLACE: WARD VILLAGE SHOPS PROJECT
1240 ALA MOANA BLVD., SUITE 601
HONOLULU, HI 96814

TIME: 10:00 A.M. (MEETING – BUSINESS)
PLACE: WARD WAREHOUSE
KEWALO ROOM, 2ND FL., BUILDING D
1050 ALA MOANA BLVD.
HONOLULU, HI 96814

ATTENDANCE:

Members: Jace McQuivey, Chair
Kalei Kini
Alice Greenwood
Aaron Mahi
Andrew Keliikoa
Analu Josephides
Charles Ehrhorn
Kehaulani Kruse
Linda Kaleo Paik

Absent: Cy Bridges (Excused)
Carolyn “Kehau” Abad (Excused)
Mark Kawika McKeague, Vice-Chair (Excused)

Staff: Pi’ilani Chang, Oahu Cultural Historian
Adam Johnson, Assistant Oahu Archaeologist
Vince Kanemoto, Deputy Attorney General

Guests: Carolyn Norman
Dwight Yoshimura, General Growth
Tim Lui-Kwan, Carlsmith/General Growth
Hal Hammatt, CSH
Kawehi Yim, Board of Water Supply
Doug Borthwick, CSH
Paulette Kaleikini
Sharon Thom, General Growth
John Behring, General Growth
Manuel Kuloloio
Alani Apio, Board of Water Supply

I. SITE VISIT AT THE WARD VILLAGE SHOPS PROJECT

The site visit at the Ward Village Shops Project Site was cancelled due to the lack of quorum amongst the Oahu Island Burial Council members.

II. CALL TO ORDER & ROLL CALL

Meeting was called to order by Chair McQuivey at 10:22 am. As council members introduced themselves, Chang recorded those that were present. The majority of the members were present and quorum was established. Kehau Abad, Cy Bridges, and Kawika McKeague were excused from today's meeting. Chair McQuivey stated that as of July 1, 2006, the Oahu Island Burial Council (OIBC) has 12 members which the council needs a quorum of 7 members.

III. INTRODUCTION OF COUNCIL MEMBERS AND SHPD STAFF

Chair McQuivey asked Mahi to say a pule and to include OIBC Vice-Chair Kawika McKeague and Maui/Lanai Islands Burial Council Chair Charlie Maxwell in the pule for their recent loss of family members. Mahi said a pule.

(Greenwood enters at 10:27 am.)

IV. OPENING REMARKS

Chair McQuivey thanked the people responsible for making arrangements to hold a site visit and meeting for the OIBC. Chair McQuivey asked the public to sign in to make sure the record reflects all that attended the meeting and to introduce themselves when coming to testify before the council. Chair McQuivey asked the public to have courtesy towards everyone that is participating and to keep all remarks to the council and not to other members of the public. Chair McQuivey reminded the public that the council established a four-minute testimony policy.

V. APPROVAL OF JUNE 14, 2006 MEETING MINUTES

(Ehrhorn enters at 10:33 am.)

Chair McQuivey asked if there was any issue that needs to be addressed prior to approving the minutes, which is the documentation in which former OIBC member Van Diamond provided to include with his speech at the June OIBC meeting. He asked the council how or whether they would like to include them with the June minutes.

Chair McQuivey stated that his recommendation would be to approve the minutes, with both attachments scanned as part of the minutes after the Deputy Attorney General has reviewed the documents to ensure that privileged information will be excluded.

Correction by Ehrhorn: Ehrhorn was absent at the June 14, 2006 OIBC Meeting. The minutes should reflect that Ehrhorn was excused from this meeting.

Motion to approve the minutes with revisions and to include the additional documentation from Van Diamond after the Deputy Attorney General has reviewed the documents and on condition that in the event that he finds anything then he will bring it back before the council at the next meeting. (McQuivey/Kruse)

VOTE: ALL IN FAVOR. Motion carries.

VI. ANNOUNCEMENTS

A. Board of Water Supply Informational Update on Upcoming/Current Projects

(Andrew Keliikoa recused himself at 10:38 am.) Quorum was maintained.

Chair McQuivey asked Kanemoto to give a presentation, on when OIBC members need to recuse themselves from agenda items, at the September OIBC Meeting. Kanemoto said he can do so if it is done in an executive session. The council would need to make a two-thirds vote to go into an executive session. It would take an affirmative vote of 7 members to go into a closed session.

Kini asked if the Ethics Commission could be present at the September OIBC meeting to provide their professional expertise on matters relating to recusal. Chair McQuivey stated that he would invite the Ethics Commission to the September meeting to make a presentation along with the Deputy Attorney General, Vince Kanemoto.

Alani Apio, Board of Water Supply, gave an informational update on the following projects.

- **Kamehameha Heights Water System Improvements, Part 2 [TMK: 1-6-15 and 1-6-16]**

BWS did proactive testing for this project and was completed without any impacts or finds of iwi kupuna.

- **Kalākaua Avenue Water System Improvement Project, Part 2 [TMK: 3-1-43]**

During this project, there was one inadvertent find of iwi kupuna. The project is almost complete and the iwi kupuna will be reburied once the project is done. Some cultural descendants were contacted and provided SHPD with recommendations of appropriate treatment of the one inadvertent find.

- **Kalāheo Avenue Waterline Improvements [TMK: 4-3 (Various Plats) & 4-4-27]**

BWS has asked Cultural Surveys Hawaii (CSH) to do proactive test trenching along specific spots along Kalāheo Avenue which have been known to contain burials. There was one inadvertent find and it will be reported to the council at the end of this meeting. BWS will continue to update the council as the project nears completion.

- **Mokulua Drive 8-inch Water Mains, Part 2 [TMK: 4-3-1, 3, 4, 5, 6, 7, 8, 9, 1]**

This project will start work in September and they will work with Kanaka ‘Oiwī as the project progresses.

- **Phase 1 Kapi‘olani Boulevard from Kalākaua Avenue to Ward Avenue, Kamake‘e Street from Kapi‘olani Boulevard to Auahi Street, and Atkinson Drive from Kapi‘olani Boulevard to Ala Moana Boulevard [TMK: 2-1-44 & 49; 2-3-2, 3, 4, 5, 7, 8, 9, 10, 15, 16, 21, 22, 32, 34, 35, 36, 38, 39, 40 & 41]**

This is a very complicated and complex project. The sewer line work will start in September and the water line work will start in January 2007. BWS is in the process of contacting cultural descendants in the area to get their mana‘o and recommendations on the project.

VII. COUNCIL ACTIONS

A. Site Visit and Burial Treatment Plan for the Ward Village Shops Project Honolulu Ahupuaa, Kona District, Island of Oahu [TMK: 2-3-5:013-017, 022, 023]

(Andrew Keliikoa returned to the meeting at 10:50 am)

Dwight Yoshimura, General Growth Properties, introduced the individuals involved with this project and thanked the council for the opportunity to make this presentation. Yoshimura explained the plans for this project area. He stated the burial treatment plan proposes the relocation of the iwi kupuna to a landscaped area on the property.

Keliikoa asked Kanemoto if he should recuse himself from this agenda item because the archaeologists involved with this project, Cultural Surveys Hawaii (CSH), has been hired by his company to work on several projects. Kanemoto stated that it's not a mandatory disqualification but he could do so if he wants to.

(Andrew Keliikoa recused himself at 10:54 am) Quorum was maintained.

Yoshimura said that CSH did extensive test trenching on this project site during the inventory survey and provided the council with other background information. Tim Lui-Kwan explained how the project began in 2002. Victoria Ward submitted its formal application to the Hawaii Community Development Authority (HCDA) in 2004. The final plan was approved by HCDA and the next step was to negotiate the building requirements. Victoria Ward started consultation with SHPD in November 2005. The project site had existing buildings on the property and those buildings were demolished to redesign the layout of that area. During the archaeological inventory survey, there were burials found in different areas on the project site. Since these burials were found during the archaeological inventory survey and are considered to be Native Hawaiian, the disposition of the burials falls under the council's jurisdiction. General Growth had a number of consultation meetings with potential descendants to update them on the proposed treatment of the burials. General Growth is requesting permission from the council to relocate the burials found on this project site to a reinterment site in the corner of the property. Lui-Kwan stated that General Growth is willing to extend the council's 45-day deadline in order for the council to make sure they have all the information they need to make this decision.

Greenwood asked to clarify who the lineal/cultural descendants were and their thoughts about the proposed treatment of the burials. She also thanked General Growth for putting language in the burial treatment plan about registering the burial in the Bureau of Conveyances. Yoshimura stated that they have consulted with some families including the Kaleikini 'ohana, the Norman 'ohana, and KeAloha Kuhea. Yoshimura said that their proposed treatment is to relocate to the corner of the property in order to ensure their perpetual protection.

Ehrhorn asked about the different options of relocation proposed in the burial treatment plan. Thom said that option B could accommodate immediate relocation which would mean that the iwi would not need to be curated; they could essentially be moved in one day. Option C would mean that there would be a possible 2 year curation time frame.

McQuivey asked what would be happening on the other side of Queen Lane. Thom stated that the diamond head side of Queen Lane has been designated as a park by HCDA. McQuivey asked if there was any thought given to having the iwi located in that park area. Thom said that they did take that into consideration but they felt it was better to keep them on the actual project site. McQuivey said that he is pleased to hear that there will be open space on that side of the project area. Paik asked about the specifics of the reburial vault. Thom said that they were thinking about a vault that would have an open bottom with it enclosed on its sides.

McQuivey asked that any recognized descendants for this project, as well as any interested party to come forward to offer the council testimony. Paulette Kaleikini asked when the SHPD required archaeological monitoring. Lui-Kwan stated that they required monitoring in March 2006. Kaleikini asked when Cultural Surveys first started testing on the site. Hammatt said that started testing in March 2006. Kaleikini shared her understanding of the criteria that the council needs to consider, under the Hawaii Administrative Rules (HAR), when making the decision to relocate or preserve in place previously identified Native Hawaiian burials. She stated that the culturally appropriate thing to do is to preserve these remains in place. She said that there are no requests by the descendants to relocate the remains and that should be taken into consideration when the council is making their decision. Her 'ohana is requesting that these iwi kupuna remain in place. Norman said that their family's position is to leave these iwi in place. She offered a couple of suggestions for General Growth to redesign their project to accommodate preservation in place such as building atriums around the burials. Kaleikini said that she is not concerned about the burial being relocated and documenting it in the Bureau of Conveyances. The intent of their kupuna was to be able to rest in peace in the place where they were buried. She is not against their development but she feels that they should look at redesigning options in order to protect these iwi kupuna. Carolyn Norman said that she believes that General Growth has the time and money to accommodate the descendant's request of redesigning. Kaleikini said that if they were to redesign their structure, they would gain more *mana* for their development. It is culturally appropriate to not disturb a burial site.

Greenwood clarified her statement about the documentation of the Bureau of Conveyances. She wanted to make clear that just because the burials are documented in the Bureau of Conveyances, that doesn't mean that they should be relocated. She wanted to make a point that now there is a standard to have documentation of where the burials are so that they will not get disturbed again. She went on to say that it is understood that if you are a cultural/lineal descendant, it is their responsibility to take care of the iwi.

Paik asked the descendants to offer suggestions of redesigning options that could help General Growth. Norman offered a few suggestions which included building higher in some places or building atriums over places where the burials are located. Josephides acknowledged and thanked Norman and Kaleikini for their continual perseverance to protect iwi kupuna.

Ehrhorn asked the descendants about the situation where the iwi are left in place and the developer paved over the remains with concrete. Kaleikini said that it is not the preferred way to do things but she is willing to entertain that option. Norman said that it has happened in the past but she does not support it. McQuivey asked if there was a preference between the option of preserving in place and building over it or relocating the remains. Kaleikini and Norman said they would have to consider it as the time calls for it. Josephides asked if it was legal to build over a burial if they determined to preserve them in place. Greenwood said that there were buildings over these burials previously and when they started this project and had to knock down the buildings, these iwi were found. She went on to say that since these iwi were found, it is the council's responsibility to make sure they are given the most decent treatment.

Manuel Kuloloio shared a letter that he wrote to SHPD about his concerns about this project. He stated that he would like to be considered as a cultural descendant to the iwi found at this project site. He shared with the council his cultural affiliation with the area. He was able to meet early on with the General Growth representatives to get acquainted with the project. Chang said that Kuloloio's cultural descendancy application came in to the office two days prior to today's meeting and will be reviewed by the next meeting. McQuivey asked Kuloloio what he thought should happen to the burials. Kuloloio asked that the council visit the site and defer this action until the next meeting. He would like to speak with his family and the developers before stating a formal position on the disposition of the burials.

Council breaks at 12:01 pm. Meeting resumes at 12:16 pm.

McQuivey asked the council if they wanted to take any action on this agenda item. Kanemoto advised the council that they could make a council determination of preservation in place or relocation at this meeting.

Motion to preserve in place the burials found on the subject property. (Paik/Kruse)

VOTE: 5 No (Ehrhorn, Greenwood, Kini, Mahi, McQuivey); 2 Yes (Kruse, Paik); 1 Abstained (Josephides). Motion denied.

The council discussed the 45 day period to make a council determination once it is put on to the agenda. Kanemoto said that the HAR's states that the council is responsible for making a decision with 45 days of its referral to the council by the department. However, he pointed out that the HAR's does not provide a consequence to the council for not making a decision within the 45 days of referral. Lui-Kwan stated that General Growth would like to offer the council an extension to make a decision on this matter until the council has all the necessary information.

Motion to defer the council determination of preservation in place or relocation until the next scheduled meeting. (Ehrhorn/Mahi)

VOTE: 7 Yes (Ehrhorn, Greenwood, Kini, Mahi, McQuivey, Kruse, Josephides); 1 No (Paik). Motion carries.

Motion to defer action on the burial treatment plan until the next scheduled meeting. (Ehrhorn/Greenwood).

VOTE: ALL IN FAVOR. Motion carries.

B. Discussion on Council Direction, Goals and Objectives

(Andrew Keliikoa returned to the meeting at 12:52 pm.)

The council deferred this agenda item.

C. Discussion of the Department's collection of 'iwi

McQuivey asked Ehrhorn if he was able to follow up with Campbell Estate regarding reburial options on their land. Ehrhorn stated that he and Nettie Tiffany made a site visit to the Campbell Estate property where they could potentially rebury iwi. He will pass any relevant information to the department for them to research further.

D. Correspondence from the University of Pennsylvania Museum

The council deferred this agenda item.

E. Status Update on Section 106/NAGPRA Correspondence

Greenwood shared with the council a report she drafted regarding the Section 106/NAGPRA correspondence she reviewed during the month of June and July.

Motion to accept Greenwood's Section 106/NAGPRA Correspondence report. (Ehrhorn/Kini)

VOTE: ALL IN FAVOR. Motion carries.

VIII. SHPD INADVERTENT DISCOVERY REPORT

(Andrew Keliikoa recused himself at 1:12 pm.) Quorum was maintained.

Chang referred the members to the monthly summary report of inadvertent discoveries of human skeletal remains, which was previously provided to the members in their packets. She read into the record the contents of her July 6, 2006 memo to the council.

(Andrew Keliikoa returned to the meeting at 1:16 pm.)

IX. ADJOURNMENT

The meeting was adjourned at 1:22 pm.

Respectfully Submitted,

Susan Yanos, SHPD Secretary &
Piilani Chang, SHPD Cultural Historian